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Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our Father, give us the grace and power to choose the more challenging right. Keep us from being too easily deflected from laudable goals. Deliver us from the procrastinations that cause us to miss opportunities. Strengthen us to finish what we start as You give us wisdom to clearly know the path we should travel. Save us from the folly that is deaf to conscience and the arrogance which will not accept advice. Open our hearts to the entry of Your spirit so that we may experience abundant living.

Use our lawmakers today for Your glory. Once again, Lord, we thank You for the life and legacy of Rosa Parks.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 4 p.m., with the time equally divided.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, we will open the session with a period of morning business until 4 p.m. At 4 today the Senate will begin consideration of the 2005 deficit reduction bill. Under the order entered into last Friday, the time from 4 to 5 today will be under the control of the chairman of the Budget Committee, Senator GREGG.

As a reminder, the majority leader has announced that there will be no rollcall votes during today's session. We will remain on the deficit reduction bill for the remainder of this week. The agreement allows a specific division of debate time over the next few days with the statutory time limit to expire at 6 p.m. on Wednesday.

It will be a busy week with rollcall votes occurring until we complete action on the deficit reduction measure. We will alert Members later as to when the first votes can be expected.

I would also suggest to Senators that we may also consider any conference reports that may become available, including the Agriculture appropriations conference report.

SUPREME COURT NOMINATION OF JUDGE SAMUEL ALITO, JR.

Mr. MCCONNELL. Mr. President, this morning the President of the United States nominated Judge Samuel Alito of the Third Circuit Court of Appeals to be the next Associate Justice of the Supreme Court. We are beginning to learn that Judge Alito has an extremely impressive career. He is an alumnus of Princeton, where he was a member of Phi Beta Kappa. He graduated from Yale Law School where he was editor of the Yale Law Journal, and he clerked for Judge Leonard

Garth on the same court where Judge Alito now sits.

Judge Alito has devoted his professional life to serving our country. He served in the U.S. Army Reserves. He served as an assistant U.S. attorney in the appellate division and as a U.S. Attorney for the District of New Jersey. He served as an assistant to the Solicitor General where he argued 12 cases before the Supreme Court. For the last 15 years he served as a Federal appellate judge on the Third Circuit Court of Appeals.

As the President noted this morning, Judge Alito has in fact more judicial experience than any Supreme Court nominee in the last 70 years. Over the course of his outstanding career, Judge Alito has consistently been praised for his legal acumen. In fact, one attorney who appeared before him said that "to describe Judge Alito as outstanding is to use understatement. He's the best judge on the circuit, maybe the country."

Judge Alito has also been praised for his calm, courteous, and thoughtful demeanor. I had a chance to experience that this morning myself when I met with him.

Lawyers who have appeared before him describe him as measured and judicious. They have said he "has a fine, nice demeanor . . . He couldn't have a keener demeanor" was one observation. Another said, "He is never discourteous or abusive." Another said, "He is forthright and fair." Another said he "reaches honest decisions."

With his outstanding abilities, it is no wonder the American Bar Association gave Judge Alito its highest rating of unanimously well qualified, which means everybody on the committee found him well qualified. That is the highest ranking the ABA can give.

In supporting his confirmation to the Third Circuit, our former colleague Senator Bill Bradley said of Judge Alito that as U.S. Attorney "he had a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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reputation of being tough but fair. Without a lot of fanfare, without calling daily press conferences, he has inspired his office with a low key sense of professionalism."

Given his impressive abilities and his calm, thoughtful demeanor, it is also not surprising that the Senate has twice confirmed Judge Alito unanimously to important legal positions.

As the confirmation process goes forward, we will learn a lot more about Judge Alito, but it appears the President has made a truly outstanding choice. I am confident the Senate will proceed on a bipartisan basis and in a thoughtful, measured way. We had a fair and dignified process for Chief Justice Roberts, and I am confident we will similarly have a respectful process for Judge Alito.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is in morning business.

NOMINATION OF SAMUEL ALITO

Mr. LEAHY. Mr. President, on Friday, the President formally withdrew from the Senate his nomination of Harriet Miers to be Associate Justice of the U.S. Supreme Court. Today, he announced his intention to nominate Judge Samuel Alito to that same position. To those who are keeping count, this will be the third nomination to fill the seat vacated by the future retirement of Justice Sandra Day O'Connor made by the President.

Justice O'Connor is still there. Three people have been nominated to fill her seat. I am concerned that the nomination may be a needlessly provocative nomination. Obviously, I will do as I have always done on nominees of both Republican and Democratic Presidents. I will make up my mind based on the hearings. But the President had before him a number of names of people who would have gotten probably 95 or 100 votes out of this Chamber, virtually every Republican and virtually every Democrat. Such a nomination would have united, not divided, the country. It appears that instead of uniting the country through his choice, the President chose to reward one small faction of the party and risked dividing the country. Instead of rewarding a small faction, which has put him under a great deal of pressure, I wish he would have rewarded the American people, all 280 million of us. There were many conservative Republican candidates who could have easily been confirmed.

Just last week, the President succumbed to partisan pressure from the extreme rightwing of the Republican Party to withdraw his nomination of Harriet Miers. The pressure did not come from the Democrats. Actually, the pressure did not come from the majority of Republicans. It came from one small, vocal wing of the Republican Party.

I believe the President abdicated his own role in the Constitution's process of selecting Supreme Court Justices and allowed his own choice to be vetoed by extremists within his party without hearings by the Judiciary Committee or a vote by the Senate.

Both the distinguished chairman of the committee, Senator SPECTER, and myself said, Why do we not have hearings and then make up our mind?

The Miers nomination became an eye-opening experience for the country, exposing for all to see what a vocal and virulent wing of the Republican Party really wants. These are not the mainstream Republicans I know in my own State of Vermont, the party that has done so much for our green mountain State. This wing did not want an independent Federal judiciary. They want a rightwing litmus test, not the selection of Justices and judges who will be fair and impartial in applying the law. They, in fact, demand judges who will guarantee the results they want.

With turmoil engulfing the White House, with no exit from the disastrous and deadly occupation of Iraq, with an escalating Federal debt, and with obscenely high profits that continue to pile up for the administration's oil company friends, catering to an extreme wing of one political party jeopardizes the vital checks and balances that protect ordinary Americans.

It is a pity that the President thought his position was so weak that he had to bend to a narrow but strident faction of his political base. The Supreme Court is the ultimate safeguard of our system to protect the fundamental rights of all Americans. I hope the White House is not using this announcement today to try to distract the public from the scandals and failures that are mounting by the day for this administration. Nor will the press be fooled into assuming this is the only issue before America.

With the announcement of Judge Samuel Alito to fill the position to be vacated by Justice O'Connor, the White House failed to follow through with its initial discussions and engage in meaningful consultation. I regret the President has not chosen a clear path of a consensus candidate to unite the American people and the Senate. Actually, the Nation and the Senate would have overwhelmingly welcomed his choice if he had.

Now, as I said, I am not forming a final judgment as to the merits of this nomination, just as I did with now Chief Justice Roberts when he was initially nominated to fill the Sandra Day

O'Connor seat, a seat not yet vacated. I said I would not make up my mind until after the hearing, and I will do that, but an initial review of Judge Alito's record suggests areas of significant concern for all of us. His opinions from the Federal bench demonstrate that he would go to great lengths to restrict the authority of Congress to enact protective legislation to protect people in the areas of civil rights, consumer protection, and the rights of workers, consumers, and women. Judge Alito has also set unreasonably high standards for ordinary Americans who are victims of discrimination to meet before being allowed to proceed with their cases.

The Democratic leader of the Senate and I wrote to the President last week. We urged him to pick one of the many qualified, mainstream women and minority candidates who could win widespread bipartisan support in the Senate. Even more importantly, they would get the same widespread public support in America.

We noted the unique circumstances that now attend this nomination and that make it essential that Justice O'Connor be replaced by a mainstream nominee, not by an activist who would bring an ideological agenda to the Court.

The Court that serves America should reflect all America, but although President Bush declared in reference to filling Justice O'Connor's seat on the Court that he is "mindful that diversity is one of the strengths of the country," with the nomination of Judge Alito, of course, he weakens that strength. Should Judge Alito ultimately be confirmed, the Court will lose some of that diversity.

There were a lot of highly qualified women, highly qualified African Americans, highly qualified Hispanics, and other individuals who could well have served as unifying nominees while adding to the diversity of the Supreme Court. I am one Senator who looks forward to the time when the membership of the U.S. Supreme Court is more reflective of the country it serves.

As the grandson of Italian and Irish immigrants, I know that Italian Americans, like all of my mother's family, and President Bush's guest, the Italian Prime Minister, will be feeling pride today, but this nomination does not add to the diversity of the Supreme Court any more than I add to the diversity of the Senate.

I imagine this announcement is a disappointment to many Hispanic Americans who had expected the President to seize this historic opportunity given to him for a third time by nominating the first Hispanic to the Court. I also imagine that all of the women in our Nation's Capital today to honor Rosa Parks, the first woman to lie in state in the Capitol Rotunda for her work in bringing racial justice to our Nation, are somewhat saddened that the seat of the first woman to serve on our Highest Court is not going to be filled by another woman.